

North America

Fossil Fuels | Natural Gas

LNG Export Bills Aim to Provide Approval Timeline Clarity

S. 33 and H.R. 351 Would Limit DOE LNG Export Terminal Decisions to 45 and 30 Days after NEPA Review Completion, Respectively

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Policy Brief

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Key Takeaways:

- The average Department of Energy approval time for LNG export terminal projects to non-FTA countries is currently 106 days after the environmental review, contributing to uncertainty in multiple energy markets
- The DOE considers the Senate and House legislation potentially detrimental since it must consider whether LNG export applicants' multi-decade, multi-billion dollar projects are consistent with the public interest, but officials said the agency "could comply"
- Domestic manufacturers oppose S. 33 and significant increases to LNG export volumes, as this would likely put upward pressure on domestic natural gas prices and electricity costs

Entities Mentioned:

- Cheniere Energy
- Conoco Phillips
- Freeport LNG Expansion and FLNG Liquefaction, LLC
- Carib Energy, LLC
- Cameron LNG, LLC
- Department of Energy
- Federal Energy Regulatory Commission
- Marathon

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Bipartisan Bills Aim to Expedite DOE Decisions on LNG Export Applications

According to domestic producers and other stakeholders, a more predictable LNG export terminal approval timeline would provide industry and markets with much-needed certainty to drive forward multi-billion dollar investments. On January 29, 2015, the Senate Energy and Natural Resources Committee held a hearing on the LNG Permitting Certainty and Transparency Act (S. 33) introduced by Sens. John Barrasso (R-WY) and Martin Heinrich (D-NM). The bill aims to expedite the Department of Energy's (DOE) decisions on liquefied natural gas (LNG) export applications involving non-Free Trade Agreement (FTA) countries. On January 28, the House of Representatives passed a parallel bill (H.R. 351) – introduced by Rep. Bill Johnson (R-OH) – by a vote of 277-133.

The bill specifies DOE's review of applications seeking to export to non-FTA countries. Under the 1938 Natural Gas Act, FTA export applications are approved "without modification or delay," while non-FTA applications are approved only after DOE determination of consistency with public interest. On average, FTA export applications are approved after 36 days, while the average DOE time for non-FTA applications for the same companies, after completed FERC approval, is 106 days. The Senate version would limit DOE's final decision on non-FTA country export proposals to 45 days after publication of an application's National Environmental Policy Act (NEPA) review, which are completed by the Federal Energy Regulatory Commission (FERC). H.R. 351 proposes a 30-day timeframe for final DOE decision after the NEPA review.

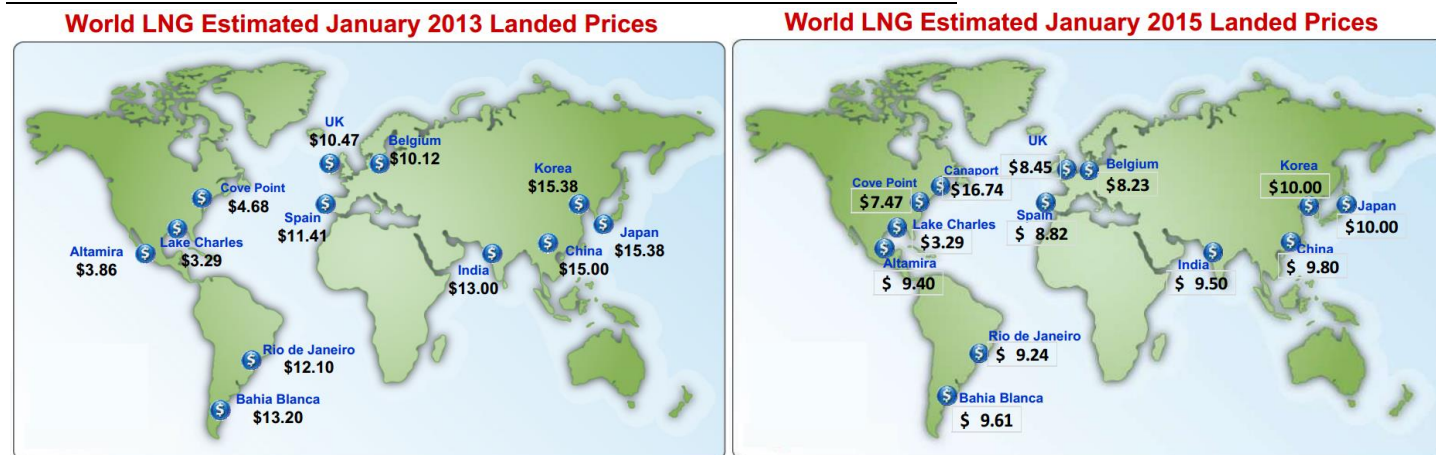
Average non-FTA application approval is 106 days

Domestic Producers Push for LNG Exports to non-FTA Countries despite Tightening Global Prices

While expedited LNG terminal approvals would allow companies to capitalize on a currently favorable export environment, the increased domestic consumption of natural gas for power generation and tightening global natural gas price disparities could indirectly limit export levels.

The domestic shale gas production boom from 2005 to early 2012 fueled interest in LNG exports, but the tightening of global price disparities and high infrastructure and shipping costs could limit U.S. LNG exports to a fraction of future global trade. In January 2013, international landed LNG prices were between ~\$10-\$15 per million British thermal units (MMBtu). Since then, international prices have dropped to between ~\$8-\$10/MMBtu (Figure 1). The price drop does not impact LNG export terminal companies with in-place contracts; however, those still in the application review queue without contracts will experience less-attractive contract terms than those finalized in 2013, which could impact overall project economics.

Figure 1 – Estimated World LNG Landed Prices (Jan. 2013 and Jan. 2015)



Source: FERC

While non-FTA export proposals take longer to be approved, export to non-FTA country applications also represent a proportionally larger volume of natural gas compared with individual FTA export proposals. As of 4Q 2014, the DOE reported requested approval of 41.90 billion cubic feet per day (Bcf/d) to FTA countries, and 38.07 Bcf/d to non-FTA countries for long-term applications to export. As of January 21, the DOE had approved 40 out of 45 FTA applications, and nine out of 29 non-FTA applications, with the remainder “under DOE review.” Of the nine non-FTA approvals, only five are final; the other four are conditional approvals. Conditional approvals are made final after satisfactory completion of environmental review and associated case-by-case measures.

DOE granted its first final approval to Cheniere Energy’s Sabine Pass liquefaction plant in May 2011 to export 2.2 billion cubic feet per day (Bcf/d) to non-FTA countries. The other final approvals to non-FTA countries are Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (1.4 Bcf/d); Carib Energy (USA) LLC (0.04 Bcf/d); and Cameron LNG, LLC (1.7 Bcf/d)). The final approvals amount to 5.74 Bcf/d of export capacity. The conditional approvals amount to 4.82 Bcf/d. However, the FTA and non-FTA export applications may not be indicative of actual LNG exported in the near term. Applicants seek export permits for 20-30 years at the maximum value they anticipate to export – an amount that would not necessarily occur as soon as the applications are approved. Hence, a review of proposed facilities’ nameplate capacities may produce an inflated view of exported LNG.

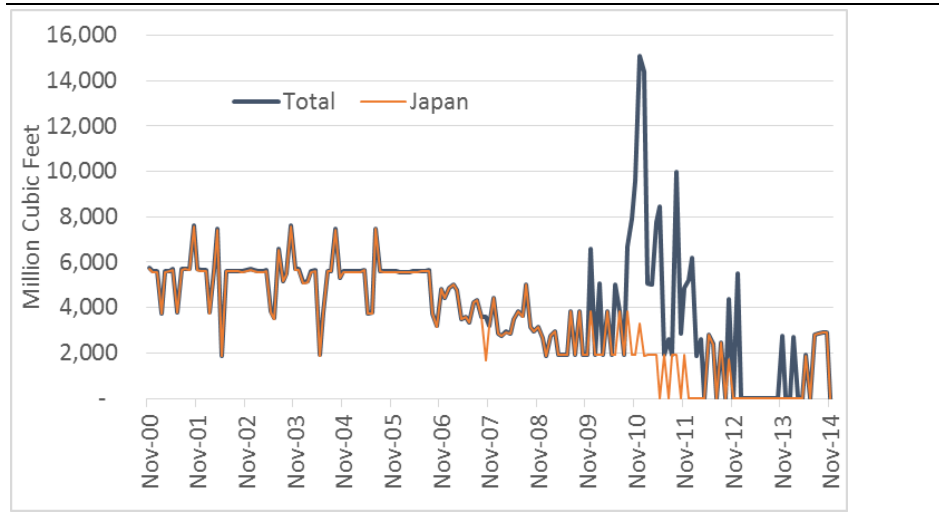
Actual LNG exports likely to be a fraction of total approved capacity

All of the lower-48 state non-FTA terminals are still under construction; no LNG has yet been exported from these facilities, although companies have already entered in long-term contracts to export LNG to Australia, France, Indonesia, Japan, Portugal, and Spain.

Despite no direct (not re-export) LNG exports to non-FTA countries from the lower 48 states, Conoco Phillips and Marathon have shipped LNG from Kenai

Alaska to Japan intermittently for more than 40 years. Conoco Phillips renewed its LNG export license in April 2014 to export a total of approximately 40 Bcf over two years. The U.S. has historically re-exported LNG to many countries including Brazil, Chile, China, India, Japan, Mexico, South Korea, Spain, and the United Kingdom.

Figure 2 – Total U.S. LNG Exports (including re-exports) and by Vessel to Japan (Nov. 2000 – Nov. 2014)



Source: EIA, EnerKnol Data

Expanding LNG exports to non-FTA countries significantly expands on the current FTA country market. The U.S. currently has FTAs with 20 countries: Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore.

U.S. LNG Exports Benefit International Energy Security and Domestic Producers but could hurt Domestic Manufacturing

Increased LNG exports could bolster national security and help the U.S. more effectively achieve its foreign policy goals, but it could also negatively impact domestic manufacturing industries. The U.S. influx of LNG to the global market is expected to supplant the influence of participants currently dominating the market – especially Iran and Russia – and reduce the vulnerability of U.S. allies to monopolistic suppliers. These geopolitical implications of domestic energy policy have been underscored by recent instability in Eastern Europe and the Middle East.

On January 29, the Director of the Atlantic Council’s Eurasian Energy Futures Initiative testified before the Senate Energy and Natural Resources Committee on the need for a transparent DOE approval process to promote certainty and predictability. He noted that U.S. LNG exports could significantly shift the balance on global gas markets and introduce much-needed additional liquidity and alternative supplies for allies in a vulnerable energy security position, citing Russia’s goal to double its share of the global LNG trade by 2020 by increasing exports to Europe and Asia. Increased U.S. exports linked to the

Reduced U.S. LNG imports have already positively impacted European markets

Henry Hub price could be used as a contract negotiating tool, and even limit Russian market share. In response to questioning from Sen. Barrasso (R-WY) on how U.S. LNG exports could help European nations even if it is not shipped to Europe, he said that reduced U.S. LNG imports have already lowered European prices, due to Qatari, Nigerian, and other supplies previously slated for U.S. shipment are now available to European destinations.

On the other side, manufacturers generally oppose the measure. Natural gas is a key energy generation fuel and manufacturing feedstock, and the upward pressure on domestic natural gas prices from LNG exports could result in higher electricity costs which would hurt domestic manufacturing. In addition, U.S. reliance on natural gas for power generation is rising, and will continue to rise in light of existing and pending EPA emissions regulations. Manufacturers say that the projected net economic benefits of LNG exports in 2020 pale in comparison to the economic risk that increased natural gas prices would place on the U.S. manufacturing sector. According to testimony from the President of Industrial Energy Consumers of America, “public interest” – the key DOE determinant for LNG export approvals – lacks a clear definition. He said it was unclear how the DOE could make informed decisions “on behalf of the over 72 million consumers of natural gas and 145 million consumers of electricity.”

Manufacturers opposed LNG exports due to potential domestic price impacts

Sen. Angus King (I-ME) expressed concern of both the volume of export capacity in the queue and the lack of a clear “public interest” definition. He stated, “I cannot understand this discussion that will inevitably lead to higher energy costs,” and proposed to limit exports to 10 percent of total U.S. production. This proposal is linked to Australia, where natural gas prices have significantly increased due to LNG export contract commitments adding up to more than 50 percent of the country’s total production. Witness Martin Durbin countered that the limit will be decided by the global market, and the U.S. would only export significant volumes if domestic supply and global price disparities warranted.

DOE Finds the Bill “Unnecessary” but Would Comply if Passed

According to Christopher Smith, the Assistant Secretary at the DOE Office of Fossil Energy, the Senate bill’s decision-making timeline is not necessary to ensure efficient and responsible action, given DOE’s commitment to act expeditiously in its regulatory responsibilities, but he said the agency “could comply” with its provisions. The DOE considers economic, international, natural gas supply, environmental, and other factors when issuing LNG export public interest determinations. Since their analyses and final determinations could have significant domestic and global implications for decades to come, a restrictive decision timeline could be detrimental. However, when pressed by Senate Energy and Natural Resources Chairwoman Lisa Murkowski (R-AK) on whether he thought the provisions in the bill were “workable and achievable,” he responded favorably, stating: “As currently written, the Department will be able to accomplish the mission.... If this is the legislation that is passed, we can comply with the law.”

Both the House and Senate bills have bipartisan co-sponsorship and a degree of bipartisan support. Three of the four House Democrat co-sponsors are from Texas - Reps Gene Green, Henry Cuellar, and Joaquin Castro; the fourth Democrat is Ohio Representative Tim Ryan. The House bill passed by a vote of 277 to 133, with 41 Democrats voting for its passage. On the Senate side, the bill has ten co-sponsors, split evenly between Republicans and Democrats, with the five Senate Democrats more geographically diverse than in the House: Sens. Heinrich (NM), Heitkamp (ND), Kaine (VA), Bennet (CO), and Udall (NM) are all co-sponsors to the bill. If the measure can survive the debate over policy riders and messaging amendments in the Senate, the bill could be approved by the President; the Administration has not issued a veto threat.

Disclosures Section

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Regulatory and Legislative agendas are subject to change.

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